

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

_____)	
ELMAGIN CAPITAL LLC,)	
)	
Plaintiff,)	
)	Civil Action No. 2:20-cv-02576-TJS
v.)	
)	JURY TRIAL DEMANDED
CHAO CHEN, KARL PETTY,)	
ENTERGRID LLC, and)	
ENTERGRID FUND I LLC)	
)	
Defendants.)	
_____)	

NOTICE OF FILING OF COMPARISON DOCUMENT

Notwithstanding the Court's Order of April 5, 2022, that the parties submit proposed joint jury instructions, along with a separate pleading containing any contested instructions,¹ on April 7, 2022, Plaintiff unilaterally filed its proposed jury instructions and verdict form at or about 8:00 P.M. this evening. Plaintiff's filing was made without notice to, or coordination with, Defense Counsel.

Defendants therefore have no alternative but to submit separately their proposed jury instructions and verdict form, notwithstanding the Court's Order. Defendants are fully cognizant of the compressed time schedule in the action, with trial having been set for April 21, 2022, on 24 days' notice. Nonetheless, Defense Counsel tried to coordinate with Plaintiffs.²

¹ The Court's Order [Dkt. 207] states: "1. No later than April 7, 2022, the parties shall file with the Clerk of Court joint proposed jury instructions on substantive issues and proposed verdict forms or special interrogatories to the jury. 2. Each party shall also file proposed jury instructions, verdict forms or special interrogatories on those issues not agreed upon by the parties in their joint submission."

² Upon receipt of the April 5 Order, Defendants promptly tendered their proposed jury instructions to Plaintiff that evening. Defendants' instructions are based upon Plaintiff's draft shared in the

To assist court, annexed as Exhibit 2 hereto is a comparison document showing the differences in the parties' proposed jury instructions. The parties have taken very different approaches in their verdict forms, rendering a comparison unhelpful.

Dated: April 7, 2022

Respectfully Submitted,

/s/ Nicole D. Galli
Nicole D. Galli (PA Id. No. 78420)
Charles P. Goodwin (PA Id No. 66500)
ND GALLI LAW, LLC
One Liberty Place
1650 Market Street
Suite 3600, #00250
Philadelphia, PA 19103
Telephone: (215) 525-9580
Facsimile: (215) 525-9585
ndgalli@ndgallilaw.com
cgoodwin@ndgallilaw.com

*Attorneys for Defendants Chao Chen, Karl
Petty, Entergrid LLC, and Entergrid Fund I
LLC*

fall in connection with the trial order originally setting the case for trial last fall (the fall deadline to submit jury instructions was ultimately continued indefinitely by the Court). In its email forwarding its instructions, Defendants offered to meet and confer with Plaintiff's counsel on Wednesday April 6, 2022 (or today if necessary). Thereafter, in the early evening on April 6, 2022, Defendants provided Plaintiff with a copy of their proposed special verdict form (Plaintiff had not provided Defendants with a verdict form last fall). Defendants again offered to meet and confer yesterday evening or at any point today after 10 AM. Plaintiff's sole substantive response, at 1 pm today, was that it "ha[d] significant doubt that we can reach agreement on any conversation based on the drafts you sent over. They have numerous issues, including imposing burdens/standards of proof that are not part of the law of this circuit and also being so complex as to simply result in confusion of all involved." Defense Counsel replied and requested that Plaintiff Counsel "please point out the places in [defendant's] drafts where they are 'imposing burdens/standards of proof that are not part of the law of this circuit'" while offering to have further conversations that afternoon. (Email exchange attached as Exhibit 1). There was no response from Plaintiff prior to Plaintiff's filing tonight. (Defendants respectfully submit that their proposed instructions adhere to the laws of the United States and the Commonwealth of Pennsylvania as well as the decisional authority in the Third Circuit and are appropriately drafted given the legal and factual issues in the case.)

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record are being served with a copy of this document via filing on ECF/PACER on April 7, 2022.

/s/ Nicole D. Galli

Nicole D. Galli